

BOARD OF COUNTY COMMISSIONERS

**BOARD MEETING
PALM BEACH COUNTY, FLORIDA**

ADDITIONS, DELETIONS, & SUBSTITUTIONS

OCTOBER 30, 2012

<u>PAGE</u>	<u>ITEM</u>	
4	4E-1	<u>ADD ON:</u> Staff recommends motion to approve: a Resolution of the Board of County Commissioners of Palm Beach County, Florida, finding that the acquisition of the water utility assets of Aqua America, Inc. located in Palm Beach County, Florida, is in the public interest; authorizing such acquisition by the Florida Governmental Utility Authority (FGUA); and providing for an effective date. (Water Utilities) (At the request of the Chair)
5	4F-1	<u>ADD ON:</u> Staff recommends approval of and authorization for the Chair of the Board of County Commissioners (BCC) to execute the following agreements contingent upon receipt of fully executed agreements including the \$5 Million security deposit by November 30, 2012: A) (1) Payment, Performance and Construction Guaranty, (2) Development Agreement, (3) Hotel Lease, (4) Hotel Room Block Booking Agreement, and (5) Garage Easement between the County and The Related Companies, L.P., City Place Hotel, LLC and/or their affiliates, (collectively “Hotel Agreements”); ... (Administration)

NOTE: Items that were revised, added, deleted, or backup submitted and were not listed on the addition/deletion sheet distributed to the Board the prior day are noted with an asterisk (*).

**ORDER OF BUSINESS
BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY, FLORIDA**

OCTOBER 30, 2012

**TUESDAY
9:30 A.M.**

COMMISSION CHAMBERS

1. CALL TO ORDER

- A. Roll Call
- B. Invocation
- C. Pledge of Allegiance

2. AGENDA APPROVAL

- A. Additions, Deletions, Substitutions
- B. Adoption

3. PUBLIC HEARINGS – 10:30 A.M.

4. REGULAR AGENDA

WORKSHOP SESSION

5. 9:30 A.M. Tropical Storm Isaac (Public Safety/Admin)

6. 11:00 A.M. Engineering Issues:

- 1) Gas Tax Status Report
- 2) Resurfacing Priorities
- 3) Red Light Camera Status Report (Engineering)

7. ADJOURNMENT

3. PUBLIC HEARINGS – 10:30 A.M. (Motion to receive and file: Proof of publication)

A. Staff recommends motion to adopt: an Ordinance of the Board of County Commissioners (BCC) of Palm Beach County, Florida, focusing on excessive nutrient levels in Palm Beach County water bodies; providing for title; providing for definitions; providing for findings; Providing for purpose and intent; providing for applicability; providing for timing of fertilizer applications; providing for fertilizer free zones; providing for fertilizer content and application rates; providing for fertilizer application practices; providing for management of grass clippings and vegetable matter; providing for exemptions; providing for training; providing for licensing of commercial applicators; providing for enforcement; providing for penalties; providing for appeal; providing for severability; providing for inclusion in the code of laws and ordinances; providing for captions; and providing for an effective date. **SUMMARY:** Florida Statute, Section 403.9337 requires local governments located within the watershed of a water body or water segment that is listed as impaired by nutrients pursuant to Florida Statute, Section 403.067, adopt an ordinance for Florida-Friendly™ fertilizer use on urban landscapes. The Florida Department of Environmental Protection has classified specific water bodies in Palm Beach County as “impaired” as a result of the presence of excessive nutrients. This Ordinance complies with the requirements of Florida Statute, Sections 403.9337 and 403.067. Department staff will review this ordinance in three years to ensure it complies with all statutory requirements, and update the BCC as to its compliance. Unincorporated (AH)

B. Staff recommends motion to adopt: an Ordinance of the Board of County Commissioners of Palm Beach County, Florida, pertaining to the regulation of synthetic cannabinoid herbal incense and synthetic stimulant bath salts and related substances; providing for short title; providing for purpose and intent; providing for definitions; providing for prohibited conduct; providing for enforcement and penalties; providing for severability; providing for repeal of laws and conflict; providing for inclusion in the code of laws and ordinances; providing for captions, providing for scope of ordinance; and providing for an effective date. **SUMMARY:** The proposed ordinance bans the sale and public display for sale of synthetic marijuana and bath salts, commonly sold in gas stations and convenience stores and marketed to minors and young adults. Countywide (PGE)

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OCTOBER 30, 2012

4. REGULAR AGENDA

A. CLERK & COMPTROLLER

1. Staff recommends motion to approve: Warrant List.
2. Staff recommends motion to approve: Contracts (regular) and claim settlements list as submitted by various departments to the Clerk & Comptroller's Office. Countywide

B. PUBLIC SAFETY

1. Staff recommends motion to receive and fie:
 - A) Declaration of Local State of Emergency declared on August 25, 2012 for a period of seven (7) days for Tropical Storm Isaac; and
 - B) an Extension of Local State of Emergency for an additional 60 days per the Office of the Governor Executive Order Number 12-199.

SUMMARY: On August 25, 2012, Palm Beach County declared a Local State of Emergency due to the impending arrival of Tropical Storm Isaac. The Declaration of Local Emergency was declared at 3:00 p.m. on August 25, 2012 and continued for seven (7) days. A new Declaration of Emergency was subsequently approved to extend the Declaration of Emergency for an additional 60 days. Declaring a local state of emergency enables the County Administrator to carry out the provisions of Chapter 252, Florida Statutes, which includes the authority take whatever prudent action is necessary to the ensure the health, safety and welfare of the citizens of Palm Beach County. Countywide (PGE)

C. OFFICE OF FINANCIAL MANAGEMENT & BUDGET

1. Staff requests Board direction: on Commissioner Burdick's request to allocate unspent funds from the Commission District 2 FY 2012 Office Budget to the CCRT program. **SUMMARY:** Due to savings mainly in salaries and travel, it is estimated that the Commission District 2 office budget will have \$60,000 in unspent funds at the end of FY 2012 and the Commissioner would like to allocate these funds to the County's CCRT (Community Revitalization) program. Board approval is required. In accordance with Board budget policy, such funds, as all other County operational funds, are automatically swept and saved to help balance the County's General Fund budget for the next fiscal year. Countywide (PFK)

OCTOBER 30, 2012

4. REGULAR AGENDA

D. ENGINEERING & PUBLIC WORKS

1. Staff recommends motion to approve: a Fourth Amendment to Agreement R2001-1425 dated September 11, 2001, with Charles Corbin, to extend the term of the contract from October 1, 2012, through March 31, 2013, for a fixed amount of \$5,510.44 each month, not-to-exceed a total amount of \$33,062.64, for the purpose of providing bridgetending service at the Point Chosen Swing Bridge. **SUMMARY:** Approval of this Amendment will relate back to September 11, 2001, and extend the expiration date of the existing agreement, without interruption or lapse, to March 31, 2013, and will provide uninterrupted bridgetending service for Point Chosen Swing Bridge. The Office of Small Business Assistance has no listing of certified Minority/Women Business Enterprises to perform this service. The Point Chosen Swing Bridge crosses the Okeechobee Rim Canal on West Lake Road (CR-717) from Belle Glade to Torry Island, Florida. A new bridgetending contract will be put out to bid and will become effective at the end of the term established under this Amendment. District 6 (MRE)

E. WATER UTILITIES

1. ADD ON: Staff recommends motion to approve: a Resolution of the Board of County Commissioners of Palm Beach County, Florida, finding that the acquisition of the water utility assets of Aqua America, Inc. located in Palm Beach County, Florida, is in the public interest; authorizing such acquisition by the Florida Governmental Utility Authority (FGUA); and providing for an effective date. **SUMMARY:** FGUA is a public utility created primarily to acquire private utility assets that cross political jurisdiction boundaries. FGUA has been tendered an offer to acquire privately owned Aqua America, Inc., which operates nearly 100 utility systems statewide, including a small, 465 customer water system that serves Lake Osborne Estates in Palm Beach County. Pursuant to Section 163.01 (7) (g) 1, Florida Statute, such acquisition needs approval of the County. Staff recommends approval based on potential improvements in customer service, rate stabilization and ability of the County to better coordinate utility operations with the public entity. There is no financial impact to Palm Beach County. District 3 (MJ)

4. REGULAR AGENDA

F. ADMINISTRATION

1. ADD ON: Staff recommends approval of and authorization for the Chair of the Board of County Commissioners (BCC) to execute the following agreements **contingent upon** receipt of fully executed agreements including the \$5 Million security deposit by November 30, 2012:

A) (1) Payment, Performance and Construction Guaranty, (2) Development Agreement, (3) Hotel Lease, (4) Hotel Room Block Booking Agreement, and (5) Garage Easement between the County and The Related Companies, L.P., City Place Hotel, LLC and/or their affiliates, (collectively “Hotel Agreements”);

B) an Amendment to the 2005 Settlement Agreement (R2005-0594) between the County and the City of West Palm Beach, West Palm Beach Community Redevelopment Agency, The Related Companies, L.P., CityPlace Retail, LLC, and CityPlace Partners and joined by City Place Hotel, LLC;

C) the Convention Center Hotel – West Palm Beach Agreement between the County and the City of West Palm Beach, West Palm Beach Community Redevelopment Agency, City Place Hotel, LLC and joined by City Place South Tower II, LLC; and

D) the Declaration of Restrictive Covenant (Convention Center Hotel Land – PILOT Payment) between the County and City Place Hotel, LLC.

SUMMARY: On July 24, 2012, the BCC conceptually approved the Hotel Agreements between the County and The Related Companies, L.P., City Place Hotel, LLC and/or their affiliates, which facilitate the construction and operation of a 400 room convention center hotel. Staff is recommending approval and authorization for the Chair of the BCC to execute these agreements to allow the construction and operation of the hotel to move forward contingent upon receipt of the executed documents from The Related Companies, L.P. (Related) and the \$5 Million security deposit. On March 15, 2005, the BCC approved a Settlement Agreement (R2005-0594) which settled lawsuits regarding the construction of the Convention Center Hotel. The Settlement Agreement included various stipulations regarding the taxability of the hotel. The Hotel Agreements negotiated between the County and Related do not comply with the Terms and Conditions of the 2005 Settlement Agreement with respect to the taxability of the hotel as it relates to the construction of condominiums. Therefore, a new Agreement, Convention Center Hotel – West Palm Beach Agreement (WPB Agreement), was negotiated between the City of West Palm Beach and Related which addresses Payments in Lieu of Taxes (PILOT Payments). The WPB Agreement requires the hotel tenant to make annual PILOT Payments to the West Palm Beach Community Redevelopment Agency and/or the City of West Palm Beach as compensation for the hotel and hotel land being immune from Ad Valorem property taxes. Failure of the hotel tenant to make these payments constitutes a default under the County’s Hotel Lease with the tenant. The County is a party to the WPB Agreement solely for the purpose of imposing the terms and conditions of the WPB Agreements on the hotel and hotel land. The WPB Agreement does not substantially affect the negotiated terms between Related and the County under the Hotel Agreements. Due to the execution of the WPB Agreement, an Amendment to the 2005 Settlement Agreement is required to memorialize the changes. The Declaration of Restrictive Covenant (Convention Center Hotel Land – PILOT Payment) places a restrictive covenant on the hotel land imposing the obligations for annual PILOT Payments to the West Palm Beach Community Development Agency and the City of West Palm Beach. Countywide (JM) (HJF)

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